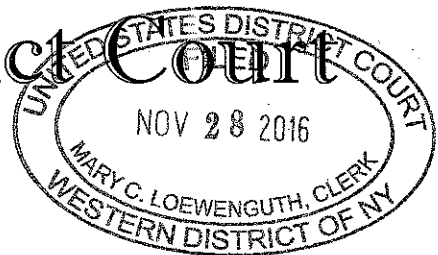


United States District Court
for the
Western District of New York



United States of America

v.

Case No. 16-MJ- 654

HENRY T. DEAN, III,

Defendant

CRIMINAL COMPLAINT

I, Christopher S. Mayfield, the complainant in this case, state that the following is true to the best of my knowledge and belief that in the Western District of New York, the defendant violated offenses described as follows:

There is probable cause to believe that between on or about December 2015 and October 2016, in the Western District of New York, the defendant, HENRY T. DEAN, III, did knowingly commit fraud by wire, in violation of Title 18, United States Code, Section 1343.

SEE ATTACHED AFFIDAVIT OF SA CHRISTOPHER S. MAYFIELD, FBI.

This Criminal Complaint is based on these facts:

☒ Continued on the attached sheet.

Sworn to before me and signed in my presence.

Date: November 28 2016

City and State: Rochester, New York

SA, CHRISTOPHER S. MAYFIELD, FBI

Printed name and title

Judge's signature

JONATHAN W. FELDMAN

UNITED STATES MAGISTRATE JUDGE

Printed name and title

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

State of New York)
County of Monroe) SS:
City of Rochester)

I, CHRISTOPHER S. MAYFIELD, being duly sworn, deposes and says:

1. I am a Special Agent of the Federal Bureau of Investigation (FBI) and have been so employed since May of 1998, duly appointed according to law and acting as such.

2. I am presently assigned to the Corning, New York Resident Agency of the FBI and I investigate, among other things, matters involving fraud by wire. This affidavit is based on my investigation and on information provided by the New York State Police (NYSP) and the Schuyler County Sheriff's Office (SCSO); written reports about this and other investigations that I have received, directly or indirectly, from other law enforcement agents; information gathered from the service of grand jury subpoenas; independent investigation and analysis by FBI agents and analysts; and my experience, training and background as a Special Agent (SA) with the FBI. The facts of those parts of the investigation with which I was not personally involved were relayed to me by NYSP Investigator Jason Wood and SCSO Investigator Craig Gallou.

3. This affidavit is made in support of a complaint charging HENRY T. DEAN, III with committing fraud by wire, in violation of Title 18, United States Code, Section 1343. Because this affidavit is being submitted for the limited purpose of securing an arrest warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only the

facts that I believe are necessary to establish probable cause that HENRY T. DEAN, III did in fact violate Title 18, United States Code, Section 1343.

DETAILS OF THE INVESTIGATION

4. In March of 2016, NYSP Investigator Jason Wood was contacted by the Schuyler County District Attorney's Office about complaints they had been receiving regarding an individual by the name of HENRY DEAN. Several complainants alleged that DEAN was providing false information on the internet regarding a vacation rental property located at 892 County Route 16 in Monterey, New York. DEAN was advertising the property as available for rent and was collecting deposits and full payments from customers who were under the impression the property was as advertised. In reality, the property did not match the description that was listed as it was still under construction. The complainants claimed that DEAN would not return their money after they determined they would not be able to stay at the property.

5. On March 10, 2016, Investigator Wood drove to the property at 892 County Route 16 in Monterey, New York, located in Schuyler County (hereafter referred to as the Finger Lakes Guest House, aka "FLGH"). He observed that both the building and the grounds were still under construction. That same day, Investigator Wood conducted an internet search on the rental property and found it listed on a site called FingerLakesGuesthouses.com. The website and the rental agreement described the property as a large vacation rental with 10 sleeping rooms and 9 bathrooms. The site also listed the property as having cable television with sports package, magazine subscriptions, a fitness room, bicycles, free shuttle service, Keurig coffee maker, a barbeque grill, three (3) ovens in the kitchen, and a food and drink starter kit including yogurts,

fresh fruit, cookies, water and Gatorade bottles, and toaster pastries. The outside of the property was described as having a six (6) person hot tub, a (4) person hot tub, a 25' x 40' pond, a separate fish pond, and a grotto, as well as several waterfalls and streams. Numerous other amenities were listed.

6. Also listed on the website's property description for the FLGH property were testimonials like "Screaming Fast WiFi and Flat Screens in every room! - Developer", "The stonework indoors and outdoors surpasses even my expectations. - Developer", and "The plan was to tour much of New York State, but we just decided to stay here the whole time...we'll be back next year, but we'll plan to stay longer. - Recent Guest".

7. Investigator Wood also observed on the rental agreement the statement "Preview: Guest is encouraged to take a tour or preview of the property before his or her stay when possible. Preview Tours are scheduled for when Property is vacant; please call and plan ahead." The cancellation policy states the deposit or prepayment is fully refundable up until 60 days prior to arrival.

8. According to Investigator Wood, in 2014, the Schuyler County Sherriff's Office (SCSO) investigated DEAN after receiving numerous complaints from individuals who had paid him deposits or full payments for rental properties and had not been refunded after cancelling their reservations. The properties involved in the 2014 investigation included the FLGH property in Monterey, which DEAN owns, as well as a house near Watkins Glen, New York and a house in Montour Falls, New York that DEAN did not own. According to Investigator Wood, the Schuyler County District Attorney ultimately declined to prosecute DEAN after DEAN paid some of the victims back and a number of other victims were reimbursed by their credit card companies.

Investigator Gallou of the SCSO advised your affiant the amount of victim losses in their 2014 investigation was approximately \$55,500.

9. Your affiant has reviewed reports provided to him by Investigator Wood and SCSO Investigator Gallou. Your affiant noted that approximately 12 victims, from states such as Minnesota, Florida, Maryland, New York, and Virginia, had contacted local law enforcement in 2016 after not receiving their money back from DEAN. One couple, Marc and Donna M. of Waldorf, Maryland reported they reserved the Monterey house on October 26, 2015 for a 2016 trip and wired \$4,812.82 to DEAN's Five Star Bank account. DEAN cancelled the reservation on January 16, 2016 and advised a refund would be made, but no refund has been received by Marc and Donna M. Investigator Wood's reports indicate several of the recent victims attempted to rent a different house near Watkins Glen, New York that DEAN had advertised along with the FLGH property. Apparently, despite his unsuccessful attempts to purchase the residence, located at 4194 State Route 14, Rock Stream, New York, (hereafter referred to as the Watkins Glen Guest House, aka "WGGH") DEAN still began advertising it as available to rent on websites such as "Homeaway" and "Vacation Rentals By Owner" (VRBO).

10. Your affiant then began speaking with victims who had attempted to rent one of DEAN's advertised properties. Donna K., from Rochester, New York, stated that in March of 2016, she began planning a family reunion by looking for rental properties on VRBO. She found the FLGH property and contacted DEAN through the VRBO website. DEAN responded to Donna K. and suggested they speak by phone. Donna K. was interested in renting the house for the week of July 16-23, 2016, for her family who would be traveling to New York from Maine, Connecticut, Florida, Virginia, and Indiana. Donna K. paid DEAN the full week's fee, \$7,530.54, up front

because DEAN offered her a 10% discount for full payment. Donna K. wired the money from her UBS bank account to DEAN's bank account at Five Star Bank.

11. According to Donna K, her contract on the FLGH property that she signed and returned to DEAN, stated that a full refund would be available if the contract was cancelled thirty (30) days in advance. During early conversations, DEAN told Donna K. they were just putting the finishing touches on the house. On July 7, 2016, a week before her scheduled rental, Donna K. texted DEAN with a question about the property. When DEAN texted the next day, he said there was a possible complication with the house. He went on to say that he might not get the certificate of occupancy because the grade of sprinkler system installed in the house was deemed substandard for that type of structure. When DEAN next called Donna K, he left her a message stating he didn't get the certificate of occupancy so he could not rent the house to her. DEAN told Donna K. that he would be giving her a full refund.

12. After not receiving her refund for several weeks, Donna K. again contacted DEAN. DEAN told her that he was waiting on a refinance before he could pay her back and that she needed to be patient. Over the next several months, Donna K. continued to contact DEAN, however she has not received a refund.

13. Your affiant spoke with Megan B. of Williamsville, New York, who stated that in 2015 she began searching on VRBO for a large rental property. Megan B. was planning a family reunion for the week of July 11-16, 2016, when she found the FLGH property located in Monterey, New York. After she contacted DEAN through VRBO, Megan B. began communicating with him through email and by telephone. On July 29, 2015, Megan B. paid DEAN a deposit of \$1,000 using her Visa card. Then on August 4, 2015, Megan B. paid DEAN the balance of \$3,217.92.

Ten days later, Megan B. noticed an additional, unauthorized charge of \$3,217.92 on her Visa card. After contacting her credit card company, Megan B. spoke to DEAN about the unauthorized charge. DEAN told her it was a mistake on his part and he would pay her back. According to Megan B., she was reimbursed by her credit card company, who later called her and advised they were having a difficult time getting in touch with DEAN. Megan B. was not sure if the credit card company was ever able to get their money back from DEAN.

14. In April of 2016, Megan B. was doing an online search when she came across a Ripoff Report relating to the FLGH property. After seeing the report, she became concerned the property would not be finished in time so she contacted DEAN. When she spoke with him, DEAN was very angry and combative about the report. When Megan B. stated that she wanted to tour the property, DEAN said no. Only after Megan B.'s husband spoke to DEAN did he agree to give her a tour. Megan B. drove to the property that same day and met with DEAN. Megan B. noted that none of the outdoor work was done and although the inside of the house had furniture in many of the rooms, there were missing doors and a lot of the finishing work had yet to be completed.

15. After returning home, Megan B. spoke with her husband and they decided to cancel their reservation. When she contacted DEAN to cancel, he became angry with her and stated he had not wanted to give her a tour of the property because he knew it would be a waste of time. After several weeks when Megan B. did not receive a refund, she contacted VRBO to complain. VRBO explained they were not responsible for the refund because the payment had not been made through the website. VRBO contacted DEAN several times about the dispute and he kept telling them he was going to pay her back. Megan B. continued to pressure VRBO to remove DEAN's properties from their site.

16. In May 2016, Megan B. received a refund check from DEAN, written from his Five Star Bank FLGH, LLC account, however when she took it to her bank, she was advised there were insufficient funds in the account. The next day, Megan B.'s bank contacted her and told her there were now enough funds in DEAN's account. Megan B. took the check to a local Five Star Bank branch and obtained a cashier's check for the money.

17. Your affiant spoke with Mark B. of Flower Mound, Texas, who stated that he and his wife were planning a family reunion in New York when they found DEAN's WGGH vacation property in Rock Stream, New York on the VRBO site. Their reunion was scheduled for July 23-30, 2016 and approximately 15-20 people would be attending. During conversations with DEAN, he (DEAN) stated that he was in the process of purchasing the property, it was a 100% done deal, and that he would be closing on it in July 2016.

18. According to Mark B., the contract that he signed with DEAN for the rental property included a statement that no guest payments would be processed until the property was closed on and the sale (to DEAN) was final. Mark B. provided your affiant with a copy of his rental agreement. The top of the document is labeled "Watkins Glen Vacation Rental" with the address of the property in Rock Stream, New York. Just below on the page are the words "Rental Agreement & Invoice for Susan" B. Under the section labeled Property Status and Contingency, the document states:

" This Guest Reservation is contingent upon the anticipated closing sale and purchase of the property. The reservation is considered tentative. No Guest payments will be processed until the property is closed upon and sale is final. This sale has been an ongoing process and is all but an absolute certainty, which is why we have opened the reservations calendar for 2016 and 2017.

Payment checks will be held and no credit cards will be processed. We will contact you via email just prior to closing and deposit of your payment check. Thank you!"

19. On April 29, 2016, Mark B. sent DEAN a check, made out to FLGH LLC, for \$7,127.00. When checking his bank account 3 days later, Mark B. saw that DEAN had already cashed the check.

20. On June 17, 2016, DEAN contacted Mark B. and told them the "old lady" who owned the house got cold feet and backed out of the sale. DEAN said he would refund their money and that he just needed a couple days to get the money out of escrow. According to Mark B., DEAN's story later changed to refinancing a property and taking the refund money out of that. At one point, DEAN stopped returning Mark B.'s text messages. Then on August 15, 2016, DEAN texted that he was waiting for an appraisal on a property before he could pay them back. Mark B. has still not received a refund.

21. Your affiant then spoke with Michael T. of Bristol, Connecticut, who stated that his wife initially found the FLGH property on VRBO in February, 2016. Michael T. and his wife were planning a family get together for the week of August 14-21, 2016. After being redirected to his website from the VRBO site, Mark T. began communicating with DEAN through email and text messages, and eventually by phone. DEAN told Mark T. the only thing left to complete on the house were the exterior pools and the hot tubs. DEAN assured Mark T. that he would get a full refund if the house was not finished before their rental week. DEAN also offered Mark T. a 10 % discount if he paid the full rental fee up front. On May 16, 2016, Mark T. sent DEAN a check for \$7,127.34.

22. Mark T. communicated off and on with DEAN after that in order to stay informed on the progress of the rental house. Eventually Mark T. became suspicious when DEAN told him about still needing to get the certificate of occupancy. On August 4, 2016, a few weeks prior to his rental week, Mark T. realized the house was not going to be finished and he contacted DEAN to cancel the reservation. DEAN told Mark T. he did not get the certificate of occupancy so he would send him his refund. On August 8, 2016, Mark T. texted DEAN asking him if he had sent out his refund check yet.

23. Mark T. provided your affiant with a copy of his text messages with DEAN. In reviewing the text communications, your affiant noted that on August 8, 2016, DEAN responds to Mark T. that he is being forced to utilize refinance money on the house which “should be in the next week or so.” On August 23, 2016, when asked for any updates by Mark T., DEAN responds that a new appraisal has been ordered and he is waiting to hear from the appraiser. On September 9, 2016, when Mark T. asks about the progress of the appraisal, DEAN replies that he has not heard anything. When Mark T. questions his truthfulness and asks DEAN for the name of his lender so that he can verify the loan process, DEAN responds “You’ve lost your fucking mind, you must think I’m an abject moron. You are blocked, when I close on the loan I will recontact you and arrange for payment...Fuck. You listening to the language here? You’re really pissing me off. You’re blocked...I don’t need the stress while I’m trying to perform. Been eating Ramen noodles and peanut butter for six weeks here for fucks sake.” Mark T. stated he has had no further contact with DEAN and to date he has not received a refund.

24. Your affiant spoke with Mary O., who stated she and her husband Charles were looking for a rental home in New York when they found DEAN’s FLGH property on VRBO.

Mary O., who was looking for a property that could accommodate 32 family members, contacted DEAN by phone after being redirected from the VRBO site. Mary O. told DEAN she wanted to rent his FLGH property for the week of July 1-8, 2017. DEAN advised her that he would give her a 20% discount if she paid in full but he needed the payment in 2 days. DEAN did not tell Mary O. the property was still under construction. On May 4, 2016, Mary O. wired \$6,366.53 from her joint bank account to DEAN's account at Five Star Bank.

25. In June or July, 2016, Mary O. was searching on the VRBO site in order to show family members the FLGH rental property when she noticed the property was no longer listed. She began calling DEAN to ask about potential problems with the property, and although she left several messages, he never called her back. Finally, on October 6, 2016, DEAN sent Mary O. an email which stated he was rebuilding his website and adding "a ton of new pictures" of the property.

26. During the investigation, your affiant learned that DEAN maintains a personal website named barefoothank.com. On the homepage, which is titled "Barefoot Hank Words of Wisdom", is a description of the site. It states: "So this is my personal website, featuring knowledge I've picked up over the years. It is an ever-expanding, growing resource and changes nearly every day. I only wish to be a wealth of information for the stuff in life that matters most to you. I wish you Health, Wealth, Happiness and Family." On the site, DEAN provides advice on such topics as running barefoot, training dogs, opening and running a business, and health matters. Under health matters, DEAN advocates the use of Protandim, a dietary/anti-aging supplement produced by a company called LifeVantage. Further reading reveals that DEAN not only praises

the life changing qualities of the supplement, he is also a local distributor/salesman for LifeVantage.

27. Your affiant reviewed statements from DEAN's business checking account at Five Star Bank. The account is under the name Finger Lakes Guesthouses, LLC/Henry T. Dean III. Your affiant noted that on April 28, 2016, the account had a negative balance of \$137.68. On April 29, 2016, after the deposit of Mark B.'s check of \$7,127.00, the account balance was \$6,989.32. From May 2, 2016 to May 4, 2016, payments from the account to Cellular Connection, GoDaddy.com, the Home Depot, Taco Bell, and iTunes, among others, reduced the balance to \$757.80. On May 5, 2016, the incoming payment from Mary O. for \$6,366.53 brought the balance back up to \$6,462.57.

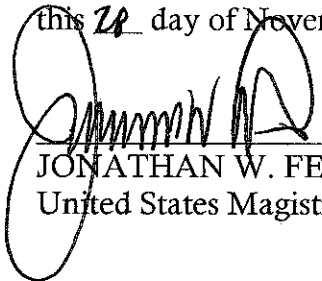
28. By May 13, 2016 (the day after DEAN wrote a refund check of \$4,217.92 to the Brintons), debits to the account, including a \$459.69 outgoing payment to Lifevantage, had reduced the balance to negative \$681.93. On May 16, 2016, the incoming payment of \$7,127.34 from Mark T. increased the balance to \$7,121.73, enabling Megan B. and her husband to cash their refund check.

29. To date, the investigation has located 24 victims from the 2015-2016 time period, with a total financial loss of approximately \$120,000.00. This loss amount does not include the two individuals who were refunded by DEAN, nor does it include the victims in the SCSO's 2014 investigation of DEAN.

WHEREFORE, based on the foregoing, I respectfully submit that there is probable cause to believe that HENRY T. DEAN, III did knowingly commit fraud by wire, in violation of Title 18, United States Code, Section 1343.


CHRISTOPHER S. MAYFIELD
Federal Bureau of Investigation

Subscribed and sworn to before me
this 28 day of November 2016.


JONATHAN W. FELDMAN
United States Magistrate Judge